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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/698,961

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Sivakumar Ramasamy

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

SAETHER, FLEMMING

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

02/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/698,961	Applicant(s) RAMASAMY ET AL.	
	Examiner Flemming Saether	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-8,10,13-18,23,25-27,29-31,33 and 36-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,4,6,7,23,25-27,29 and 30 is/are allowed.
- 6) ☒ Claim(s) 8,10,13-18,31,33 and 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, 14-18, 31, 33 and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bregenzer (GB 2,065,011) in view of Mielke (WO 03/022504). Bregenzer discloses a weldable fastener comprising a shank (10) and a head (20). The shank is described as a bolt thus it would inherently include threads. The fastener is also disclosed as being welded to a composite metal panel comprising metal sheets with a plastic core. The head of the fastener is disclosed as having an annular weldment area (24) having a flat lower surface (at 26) and extending from an outer periphery at a lower surface of a web portion of the head (22) so as to form a cavity when it is welded to the panel. The thickness of the weldment between the bottom surface of the head and the flat surface of the weldment being shown as about the same as the thickness of the head at the web and as such does not disclose the thickness of the weldment being less than half that of the head. Mielke also discloses a weldable fastener including an annular weldment (6G) which, in the embodiment of Fig. 9, can be seen as having a thickness less than half that of the remainder of the fastener. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to make the fastener of Bregenzer with a weldment having a thickness less than half the thickness of the head as disclosed in Mielke because Mielke teaches it is known to vary the

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thickness of the weldment between a thickness which is equal to the head (see Mielke's Fig. 8) and a thickness which is less than half. The lesser thickness would provide a greater strength to the weldment and the fastener connection overall. The order to failure loads is an intended use since as it would depend on the type of load and other external factors and the specific dimension would have obvious depending upon the particular application.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over modified Bregenzer as applied to claim 8 above, and further in view of WO 03/042554.

Assignee's prior publication, WO 03/042554, discloses the fastener to have a weakened portion. At the time the invention the invention was made, it would have been obvious to provide the device of the modified Bregenzer with a weakened portion as disclosed in WO 03/042554 and for the same reasons to ensure the threaded shaft will be the first to fail.

Allowable Subject Matter

Claims 1, 2, 4, 6, 7, 23, 25-27, 29 and 30 are allowable.

Response to Remarks

In light of applicants' amendments and arguments, the 112 rejections have been withdrawn.

The double patenting rejection was obviated with the Terminal Disclaimer.

As noted above, independent claim 1 is now allowable with the inclusion of the subject matter of claim 5. Claim 5 has been canceled.

Independent claims 8, 18 and 31 continue to reject as amendment. Applicants' argues that the prior art does not disclose the dimensional limitation allowing the web portion to fail after the shank. In response, the claims do not include a dimensional limitation and while the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, all that is claimed is a relative torsional strength and since the torsional strength is dependent on an external torque applied it must be considered as an intended use limitation of which the prior art only needs to be capable of. Finally, the prior remarks notwithstanding, applicants' own prior art (WO 03/042554) teaches that it is known to have the shaft be the first to fail thus applying the same concept to Bregenzer would have been obvious for its predictable results.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Flemming Saether
Primary Examiner
Art Unit 3677

/Flemming Saether/
Primary Examiner, Art Unit 3677